

IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
ORIGINAL SIDE

APOT/332/2024  
WITH  
WPO/606/2024  
IA NO: GA/1/2024  
EIH LIMITED AND ANR  
VS  
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE :  
THE HON'BLE JUSTICE JOYMALYA BAGCHI  
And  
THE HON'BLE JUSTICE GAURANG KANTH  
Date : 7<sup>th</sup> October, 2024

Appearance :  
*Mr. Abhrajit Mitra, Sr. Adv.*  
*Mr. Emon Bhattacharya, Adv.*  
*Mr. Rachit Lakhmani, Adv.*  
*Ms. Pooja Sah, Adv.*  
*Mr. Pratik Dutta, Adv.*  
*...for appellant.*  
*Mr. D. Mukherjee, Adv.*  
*...for CESC*  
*Mr. A. Ray, Adv.*  
*Ms. Ashmita Chakraborty, Adv.*  
*Mr. Paritosh Sinha, Adv.*  
*...for State*  
*Mr. Alak Kr. Ghosh, Adv.*  
*Mr. S.K. Debnath, Adv.*  
*..for Kolkata Municipal Corporation.*

The Court:- Appellant no.1 is the owner of an iconic hotel in the city of Kolkata. An ornate arcade stands at the entrance of the hotel. Adjoining footpath under the arcade is occupied by hawkers. The appellants approached this Court, inter alia, praying the street hawkers to be removed and the area be declared as a 'non-vending zone'.

In the meantime, appellants had approached the Corporation for making immediate repairs and renovation of the arcade. However, the repairs and/or renovation could not be undertaken as the entire area is occupied by street hawkers.

In the joint report submitted by the SAE (Civil), AE (Civil) and Executive Engineer, Borough VI before the Hon'ble single Judge it was noted repairs of columns, front ceiling of the shopping arcade along with footpath needs immediate intervention. Some plastering is also needed to avoid accident.

Inspection report of the Additional Municipal Commissioner appended to the joint report records as follows:-

*“While the Oberoi Grand will take up the through (sic) repairing of the roof of the said arcade, the Town Vending Committee (TVC) of Kolkata Municipal Corporation assures to extend full cooperation for the smooth conduct of the said work.”*

Perusing the said report, the Hon'ble Single Judge observed, immediate repair of the arcade was necessary to prevent casualty and gave liberty to the appellants to submit an application providing detailed particulars of the repair and renovation work at the arcade of the building before the Heritage Committee of Kolkata Municipal Corporation. The Committee was directed to take appropriate decision in the matter within a time frame.

Mr. Mitra for the appellants submits the law does not require permission of the Heritage Conservation Committee constituted under Section 425E of the Kolkata Municipal Corporation for undertaking repairs and renovation in a Heritage Building. Be that as it may, he contends an application containing details of the repairs/renovation to be undertaken has already been submitted before the authorities concerned.

Mr. Ghosh contends an empanelled Architect of the Heritage Conservation Committee had requested appellants to submit necessary documents, which they have failed to do.

We have considered the submissions at the Bar. Report submitted before the Hon'ble Single Bench and the observations of the said Bench in its order dated 16<sup>th</sup> August, 2024 leave no doubt that immediate repairs and renovation at the arcade is necessary to prevent an untoward incident.

We also note that application detailing the necessary repairs has been submitted before the Corporation Authorities which is annexed as 'Annexure-R' of the stay application. We direct the said application to be submitted before a Committee comprising of the empanelled Architect, Sri Dulal Mukherjee and the Executive Engineer, Borough-VI, who shall vet the application and the appellants shall undertake repairs and renovation of the arcade as per advice and/or supervision of the said Committee. The Committee shall be at liberty to suggest changes with regard to extent and manner in which the repairs and renovations are to be made so that the heritage character of the arcade is not impaired.

The Committee is requested to co-operate with the appellants so that the repairs and renovation may be undertaken within four weeks from date.

We also request the authorities concerned, namely Kolkata Municipal Corporation, Town Vending Committee, police authorities as well as the street hawkers who are occupying the footpath under the arcade to render necessary co-operation and not to obstruct the repair works which shall be undertaken by the appellants under the supervision of the Committee.

Report of the Committee shall be submitted before the Hon'ble Single Bench.

With the above directions, the appeal and connected application stand disposed of.

(GAURANG KANTH, J.)

(JOYMALYA BAGCHI, J.)